

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM NEGOTIATED CONTRACT CLAUSE

APPLICABILITY – For the purposes of this contract clause, a “Negotiated Contract” is a contract that is procured through a Qualifications-Based Selection (QBS) process, such as a Request for Qualifications. These types of procurements include: Engineering services, Architectural services, One-Step Job Order Contracting, Two-Step Job Order Contracting, One-Step Design-Build, and Construction Manager at Risk. This contract clause shall be included in both the solicitation and contract documents for these projects.

SECTION I. DEFINITIONS

Arizona Unified Certification Program (AZUCP) means a consortium of government agencies organized to provide reciprocal DBE certification within Arizona pursuant to 49 CFR Part 26. The official DBE database containing eligible DBE firms certified by the AZUCP can be accessed at: <http://www.azdbe.org>.

Broker, Packager, Manufacturers’ Representative, or Jobber means a firm that is not a manufacturer or regular dealer as defined herein.

City for the purposes of this contract means the City of Phoenix.

Commercially Useful Function means that a DBE firm is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. A DBE must perform at least 30 percent of the total cost of its contract with its own work force in order to be determined to be performing a commercially useful function on the contract.

Contract is a written agreement obligating the seller or business enterprise to furnish goods or services as submitted and the Purchaser or Buyer to pay for such goods or services.

DBE Joint Venture is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status with the City or AZUCP. The joint venture is limited in scope and duration to this contract, the resources, assets and labor of the participants must be combined in an effort to accrue profit.

Disadvantaged Business Enterprise (DBE) means a small business concern that has successfully completed the DBE certification process and been granted DBE status by the City’s Equal Opportunity Department (EOD) or another member of the Arizona Unified Certification Program (AZUCP) pursuant to the criteria contained in 49 Code of Federal Regulation (CFR) Part 26.

Economically Disadvantaged Individuals means those individuals who have a personal net worth of less than \$750,000, not including the value of their equity interest in their personal residence or the value of their ownership interest in the firm seeking certification as a DBE.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract.

Purchaser for purposes of this contract means the City or its subrecipient.

Regular Dealer or Supplier means a business that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications are bought, kept in stock, and regularly sold or leased to the public in the usual course of

business. The firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

Small Business Concern means a small business with gross receipts or number of employees consistent with the U. S. Small Business Administration's definition of a small business, subject to further limitations as defined in 49 CFR Part 26.

Socially Disadvantaged Individuals means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status by the City or AZUCP shall be considered socially and economically disadvantaged individuals for purposes of this contract.

Subcontract is a contract at any tier below the prime contract, including purchase orders.

Subcontractor is an individual, partnership, joint venture, corporation or firm that holds a contract an any tier below the prime contract, including purchase orders.

Submitter is an individual, partnership, joint venture, corporation or firm submitting a submittal to the City to perform services required by the contract. The submittal may be direct or through an authorized representative.

Successful Submitter is a Submitter who has been selected to perform services requested by a solicitation or procurement.

SECTION II. GENERAL REQUIREMENTS

- A. **For this contract, the City has established a DBE participation goal of not less than 8.76% of the contract dollar amount.** In determining if a Submitter has met this requirement, rounding up of proposed DBE subcontract amounts shall not be allowed.
- B. **The Successful Submitter agrees to meet the DBE goal** established for this contract by making opportunities available for DBE firms to participate in the work of the contract.
- C. **Certification Requirement** - ONLY firms certified by the City of Phoenix or another member of the AZUCP are eligible to fulfill the DBE subcontracting goal established for the contract.
- D. **DBE Scopes of Work** - The eligible DBE firms, their scopes of work, and their proposed contract amounts listed in the submittal to fulfill the DBE requirements of the contract must not be removed or replaced, changed or reduced without prior written approval of the City.
- E. **Nondiscrimination Clause** - The Purchaser, as a recipient of federal U.S. Department of Transportation (USDOT) funding, has agreed to abide by the assurance found in 49 CFR Part 26.13(a). As a condition of this agreement, the Purchaser shall require each contract signed by the Purchaser with the Successful Submitter, and each subcontract signed by the Successful Submitter with a subcontractor, to include the following assurance:

"The contractor, subcontractor, or subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Par 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract and/or any other such remedy as the Purchaser deems appropriate."

Note: For the purposes of the required contract and subcontract language above, the Successful Submitter is the “contractor” and the Purchaser is the “subrecipient”.

SECTION III. SUBMITTAL REQUIREMENTS

- A. 1. **Responsiveness to DBE Requirements at Time of Submittal** - Any Submitter wishing to remain in competition for contract award shall provide the minimum required DBE information due **at time of submittal**. This minimum requirement is the submission of **Attachments A and B** as detailed in Part C below. Failure to submit the DBE program documentation in a timely manner as herein set forth will result in a determination by the Purchaser that the Submitter is non-responsive to the DBE requirements.
2. **Responsiveness to DBE Requirements Prior to Contract Award** – Following the solicitation submittal and completion of the selection process, the Successful Submitter shall provide all additional required DBE validating information **once contract negotiations with the Purchaser have been completed and prior to contract award**. This required information is the submission of **Attachment C, Attachment D, and Attachment E**. *This requirement does not apply to job order contracting services procurements.*
3. **JOB ORDER CONTRACTING SERVICES ONLY - Responsiveness to DBE Requirements After Contract Award** – Job order contracting services are provided by the Successful Submitter on an as-needed basis. Therefore, the Successful Submitter shall provide additional required DBE validating information as project work is negotiated and issued against the job order contract. These requirements are detailed in Section VI of this clause.
- B. **Submittal Format** - All required DBE information due at time of submittal should be submitted in a separate sealed envelope either with the submittal. The remaining required DBE information due prior to contract award should be submitted as a completed package with the Successful Submitter's final negotiated proposal.
- C. **Forms & Documentation** - Submitters must submit the following documentation in the form prescribed by the City. For purposes of this requirement, other documentation that may, on its face, provide the same information contained on the required forms shall not be sufficient to meet this requirement.

Due at Time of Submittal:

1. A ***Proposed DBE Participation*** form with proposed DBE participation percentage for the required scope of services based on the solicitation documents. (**Attachment A**)
2. A ***Subcontractor Contact/Bidder List*** of all subcontractors contacted by the Successful Submitter in the preparation of its submittal, that includes the name and addresses of the companies and the scopes of work for which they were solicited. (**Attachment B**)

Due Prior To Contract Award:

3. A ***Letter of Intent to Perform as a Subcontractor/Supplier*** completed and signed by each DBE firm that will perform on the contract and whose participation will be counted towards meeting the DBE utilization goal. (**Attachments C & C2**)
4. A ***Proposed DBE Participation*** form completed and signed by the Successful Submitter that lists all DBE firms that will perform on the contract and whose participation is being used to meet the DBE goal requirements of the submittal. (**Attachment D**)
5. A ***Subcontractor Contact/Bidder List*** of all subcontractors contacted by the Successful Submitter to solicit proposals for work on the contract, that includes the name and addresses of the companies and the scopes of work for which they were solicited. (**Attachment E**)

- D. **Waiver** - Submitters **failing** to identify DBE participation that is equal to, or greater than, the DBE utilization goal cited in Section II (A) of this document, shall, **as a matter of responsiveness**, petition for

full or partial relief from the portion of the requirement that has not been met in the submittal. The Successful Submitter shall follow the same process for full or partial relief from the portion of the requirement that has not been met in its negotiated proposal.

The petition for relief and all required supporting documentation shall be provided **at the time set for submittal of DBE documents as required and set forth in Part A above**. The petition for relief must state the specific portion of the goal for which relief is requested and must be in affidavit format, duly signed by an authorized representative of the Submitter or the Successful Submitter.

The petition for relief **does not** relieve the Submitter from the requirement to submit the documentation listed in Part A of this section (Attachments A and B) for that portion of the DBE goal that will be met.

Additionally, the petition for relief **does not** relieve the Successful Submitter from the requirement to submit the documentation listed in Part A of this section (Attachments C, D, and E) with its negotiated proposal for that portion of the DBE goal that will be met.

- E. **Good Faith Effort** - A petition for relief shall include all reasonable good faith efforts made by the Submitter or Successful Submitter towards fulfilling the DBE requirement. Mere *pro-forma efforts* will not be regarded as satisfying the requirements of good faith. The actions taken to meet the good faith requirements must be substantiated by written documentation and proof.

The following factors, as set forth in 49 CFR part 26, are illustrative of matters the City will consider in judging whether the Submitter made good faith efforts:

1. Whether the Submitter or Successful Submitter attended pre-submittal or pre-solicitation meetings that were held by the Purchaser. The City will verify attendance through a sign-in log maintained for each such meeting.
2. Whether the Submitter or Successful Submitter advertised in general-circulation trade association and DBE-focused media concerning the subcontracting opportunities.
3. Whether the Submitter or Successful Submitter solicited interest from a reasonable number of DBE firms. The notices should be in written format and should show that sufficient time was allowed for DBEs to participate effectively.
4. Whether the Submitter or Successful Submitter selected portions of the work to be performed by DBEs to increase the likelihood of meeting the DBE goals. This includes, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation.
5. Whether the Submitter or Successful Submitter negotiated in good faith with interested DBEs and did not reject a DBE's submittal as unqualified without sound reasons.
6. Whether the Submitter or Successful Submitter made efforts to assist interested DBEs in obtaining required bonding, lines of credit, or any insurance.
7. Whether the Submitter or Successful Submitter effectively used the services of available DBE community organizations, contractor groups, local, state, and federal assistance offices, and other organizations that provide services to or for the benefit of DBEs.

- F. **Direct negotiations with DBEs** - In instances where direct negotiations with DBEs has occurred, the actions taken must be reported in such a fashion as to include:

1. A detailed statement of the efforts made to negotiate with DBEs including, at a minimum, the names, addresses, and telephone numbers of DBEs contacted and the date(s) of the contact.
2. A description of the plans and specification information provided to DBEs regarding the portion of work to be performed.
3. A detailed statement of the reasons why an agreement was not reached with the DBEs.
4. An explanation of the efforts made to select portions of the work to be performed by DBEs in order to increase the likelihood of achieving the stated goal.
5. For each DBE contacted that is subsequently considered to be unavailable, the Successful

Submitter must submit a statement of unavailability signed by the DBE, or if one cannot be obtained, a statement from the Submitter that includes the reasons why the DBE was considered unavailable.

- G. **Waiver Consideration** – When a full or partial Waiver is requested, the City will consider all evidence provided by the Submitter in the submittal packet, or the Successful Submitter in the proposal packet. A department representative may request to meet with the Submitter or Successful Submitter for purposes of obtaining clarification on the information being reviewed.

The City will make a determination, in writing, of the Submitter's or Successful Submitter's demonstration of good faith. If a determination is made that the Submitter failed to meet the good faith requirements, the City shall consider the submittal as non-responsive. Notice shall be sent, in writing, in instances where the Submitter is found to have been non-responsive. In the case of a Waiver from the Successful Submitter, if a determination is made that the Successful Submitter failed to meet the good faith requirements, the Purchaser shall not proceed with award of the contract. The Successful Submitter will be required to revisit its utilization efforts in order for the Purchaser to proceed with award of the contract.

- H. **Administrative Reconsideration** – If the City determines the Submitter failed to meet the good faith effort requirements, an opportunity for reconsideration of this determination will be provided prior to awarding the contract to the Successful Submitter.

If a Submitter wishes to request reconsideration of the determination of non-responsiveness based on insufficient good faith efforts, written notice must be submitted to the City within three days of the City's notification to the Submitter. As all relevant evidence and documentation were required at the time of submittal, no additional evidence or documentation of good faith efforts will be considered in the reconsideration process. The request for reconsideration should be made to:

City of Phoenix Equal Opportunity Department
Business Relations Division – Contract Compliance Section
251 West Washington Street, 7th Floor
Phoenix, AZ 85003

A copy of the request for reconsideration should be sent to:

City of Phoenix Public Transit Department
Transit Oversight Programs – Civil Rights Section
302 North 1st Avenue, Suite 900
Phoenix, AZ 85003

SECTION IV. POST-AWARD GENERAL REQUIREMENTS

- A. **DBE Subcontracting Obligation** – The Successful Submitter receiving award of the contract shall enter into a subcontract with each approved DBE subcontractor listed in their submittal. Each subcontract shall be for the scope of work and amount stated in the submittal and/or proposal documents. DBE subcontracts shall not be terminated, nor shall the scope of work be altered, without written approval of the City. The amount of the subcontract shall also not be revised to a lower amount than was stated in the submittal and/or proposal documents without prior written approval of the City. Any petition to alter the original committed subcontract with a DBE must be submitted in writing to the City prior to such change occurring. Failure to do so may result in the contractor being declared in breach of the contract.
- B. **DBE Substitutions** – The Successful Submitter must notify the City in writing of the necessity to substitute a new DBE in order to fulfill the DBE requirements. Actual substitution or replacement of a DBE must not occur before the City's written approval is obtained. The request must provide specific

reasons why the substitution or replacement of the DBE is necessary.

- C. **Post-Award Relief From DBE Requirements** – After contract award, no relief from the DBE requirements will be granted except in exceptional circumstances. Requests for relief from any or all of the DBE goal requirements must be in writing to the City. The City has the final authority to determine if the request will be granted.

The written request must contain the amount of the relief being sought, the evidence that demonstrates why the relief is necessary, and any additional relevant information to be considered by the City. All records of the Successful Submitter's attempts to subcontract with the DBE firm and any other actions taken to locate and solicit a replacement DBE must be included with the request.

If an approved DBE allows their DBE status to expire or their DBE certification is removed during the course of the subcontract, the City will consider all work performed by the DBE under the original contract to count towards meeting the DBE goal requirement. No increased scopes of work negotiated after removal/expiration of the DBE firm's certification will be counted nor will any work performed under a contract extension granted by the Purchaser be counted towards meeting the DBE goal requirement.

In instances where the subcontractor was approved as a bona fide DBE by the City, and the firm subsequently loses its DBE status prior to the execution of a contract, the City will consider whether or not good faith efforts were made to find and substitute the firm with a certified DBE. The showing of good faith must be provided in writing to the City prior to replacing the DBE firm.

SECTION V. POST-AWARD COMPLIANCE REQUIREMENTS

- A. **Attempts to Evade DBE Requirements** – Any firm found to have knowingly engaged or participated in any direct or indirect attempt to evade the DBE requirements of the DBE Contract Clause may be declared ineligible for future contracts with the Purchaser that contain federal assistance. The firm may be held liable to the Purchaser for any forfeiture of funds or damages caused by delay in the award or performance of the contract resulting from the contractor's non-compliance.

If a firm uses, or attempts to use, false, fraudulent, or deceitful statements or representations in order to meet the DBE goal requirement of the contract, the City reserves the right, under the provisions of 49 CFR Part 26.107, to report such actions to the USDOT. The USDOT may, at its discretion, initiate suspension or debarment proceedings against the firm. The City may also pursue all means available to address such unprofessional and unethical behavior.

- B. **Prompt Payment of Subcontractors** – In accordance with the Arizona Revised Statutes (ARS), Section 34-221(G) and the Purchaser's solicitation and/or contract documents, the Successful Submitter is required to promptly pay its subcontractors, subconsultants, or suppliers within 7 calendar days of receipt of each progress payment from the Purchaser. Any diversion by the Successful Submitter of payments received for work performed on the contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for a declaration of breach of the contract with the Purchaser. No contract terms and conditions between the Successful Submitter and its subcontractors, subconsultants, or suppliers may alter the rights of any subcontractor, subconsultant, or supplier to receive prompt and timely payment as provided herein. The prompt payment provisions of 49 CFR Part 26 require the Successful Submitter to promptly return any retention monies to subcontractors or subconsultants at such time as the work of the subcontractor or subconsultant is complete and the Purchaser has accepted the work and paid the Successful Submitter for the work performed and accepted. Retention shall be paid no later than 30 days after such payment is issued by the Purchaser. Nothing in this section negates the rights of the Successful Submitter to carry out the terms and conditions of its contract with the subcontractor or subconsultant as it relates to monies owed by the subcontractor or subconsultant for late performance, claims, and other conditions that may exist.

- C. **Counting DBE Participation** – DBE subcontracting participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces, equipment, supplies, etc. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, **except** when supplies and/or equipment is purchased or leased from the Successful Submitter or its affiliate. Any work contracted to the DBE that is performed by the forces of the Successful Submitter or a non-DBE subcontractor to the DBE will not be counted.
- The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services may be counted. Fees charged for providing bonds or insurance specifically required for the performance of a DOT-assisted contract may be counted provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- D. **DBE Performance of a Commercially Useful Function** - The work of a certified DBE may be counted towards attaining the DBE goal of the contract only if the DBE is performing a commercially useful function on the contract. In order to meet this commercially useful function standard, the DBE firm must perform or exercise responsibility for at least **30 percent** of the total cost of its contract with its own workforce. Any work contracted to the DBE that is performed by the forces of a non-DBE Prime contractor or a non-DBE subcontractor to the DBE will not be counted.
- E. **Fees and Commissions** - Amounts paid to a firm that does not perform work on the contract with its own forces but rather acts as an agent to arrange such work, materials, or products may not be counted in full towards the DBE goal. Only the fees and commissions retained by the firm may be counted. Examples of instances where only fees and commissions may be counted include, but are not limited to: 1) A DBE that provides uniformed officers for security or traffic control; 2) A DBE firm that owns no trucks but acts as a broker to supply trucking services; 3) A wholesale distributor that orders and drop ships equipment, materials, or supplies on behalf of the Successful Submitter when that firm is not a regular dealer; and, 4) Any DBE firm whose role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain services, materials, equipment, or product. Refer to Attachment C-2, Part 1 for an illustration of how to calculate the portion that will be counted in determining Submitter responsiveness.
- F. **DBE Prime** - A Successful Submitter that has obtained DBE status with the City of Phoenix or another AZUCP member is considered a DBE Prime. A DBE Prime will be credited with DBE participation for that portion of the contract that they themselves perform, only if the DBE prime performs a commercially useful function on that contract. In order to meet the commercially useful function standard, a DBE prime must perform or exercise responsibility for at least **30 percent** of the total cost of its contract with its own workforce. A DBE prime contractor that has **not** been granted DBE status by the City of Phoenix or AZUCP member cannot count its participation. In addition, any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor may also be counted. **Example:** *If a DBE Prime Contractor proposes to perform 60 percent of the contract with the firm's equipment and workforce, and subcontracts 20 percent to a DBE firm and 20 percent to a non-DBE firm, DBE participation will be credited as being 80 percent.*
- G. **DBE /Non-DBE Joint Ventures** - A DBE/non-DBE joint venture, functioning as the Successful Submitter or as a subcontractor on a federally assisted project, will be credited with DBE participation on the basis of the percentage of profit accruing to the DBE firm. The DBE participant in the Joint Venture must have been granted DBE status by the City of Phoenix or Arizona Unified Certification Program. **Example:** *A joint venture made up of one DBE and one non-DBE proposes to perform 60 percent of a project quoted at \$400,000. A total of 50 percent of the profits for performing the work will go to the DBE partner in the joint venture. DBE participation will be credited at 30 percent or \$120,000.*
- H. **Lower Tier Non-DBE Participation** - Subcontract dollars paid by a DBE Prime to non-DBE subcontractors will not be considered when determining the percentage of DBE participation on this

contract. Amounts subcontracted to a non-DBE by a DBE subcontractor (2nd tier or lower) may not be counted as well.

- I. **DBE Suppliers** – Purchases from DBE suppliers who have been granted DBE status by the City of Phoenix or Arizona Unified Certification Program may be counted towards the goals as follows:
1. **Manufacturers** - Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.
 2. **Regular Dealer or Supplier** - Purchases from a DBE firm that meets the definition of a regular dealer as contained herein and such business engages, as its principal business, in the purchase sale, or lease of products being supplied **may be credited towards the DBE goal at sixty percent (60%) of the sale price** when determining the percentage of DBE participation.
 3. **Packagers, Brokers, Manufacturers' Representatives, or Jobber** – Purchases from a DBE firm who arranges or expedites transactions not as regular dealers **may not be counted in full** when determining DBE participation. **Only the fees or commissions charged** in the procurement of the materials or supplies, or fees/transportation charges for the delivery of the materials or supplies, may be credited towards achievement of the DBE goal.
- J. **Record Requirements** – During the performance of the work of the contract, the Successful Submitter shall keep such records as are necessary to determine its compliance with the DBE requirements. The records are to be provided to the City within 72 hours of notification by the City that the records are required. These records include, but may not be limited to:
1. A complete listing of all DBE and non-DBE subcontractors on the project.
 2. The scopes of work being performed by each subcontractor.
 3. The dollar value of all subcontracting work, services, and procurements.
- K. **Notification of Change** – The Successful Submitter shall notify the City at any time during the contract if it is anticipated that the DBE goal requirements will not be met. This may occur due to changes in the scopes of work required by the Purchaser that would affect the participation of a DBE subcontractor. The City will work with the contractor to identify additional areas where DBE participation could be obtained.

SECTION VI. POST-AWARD REPORTING REQUIREMENTS

- A. **Job Order Contracting Services ONLY** – Job Order Contracting (JOC) services are issued to the Successful Submitter on an as-needed basis throughout the duration of contract. Multiple individual projects called Job Order Agreements (JOA) are typically issued to the Successful Submitter. With each JOA, the Successful Submitter shall provide all additional required DBE validating information **once JOA negotiations with the Purchaser have been completed and prior to execution of the JOA**. This required information is the submission of **Attachment C, Attachment D, and Attachment E for each JOA**.
- B. **Subcontracts** – The Successful Submitter shall enter into a subcontracting arrangement with each DBE firm listed on Attachment D of proposal. Copies of all executed DBE subcontracts shall be submitted to the City as a matter of compliance. Contracts must be submitted prior to the commencement of work by the DBE firm in order for the work being performed to be counted towards the established DBE goal requirement.
- C. **Timely Reporting** - During the course of the contract, the Successful Submitter will submit all required DBE reports in an accurate and timely manner. Reports shall be in such form, manner, and content as prescribed by the City. These reports shall be submitted with each Request for Payment submitted by the Successful Submitter to the Purchaser. **(Attachment F and other such reports as prescribed by**

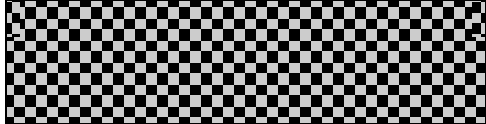
the City)

- D. **Close-Out Reporting** - Upon completion of the contract, the Successful Submitter shall submit a "Certification of Payment to DBE (**Attachment G**) and "DBE Subcontracting/Subconsultant/Procurement" list (**Attachment H**) to the City. These forms are to be completed and signed by a duly authorized agent of the Successful Submitter and all DBE firms must verify they have received payment in full from the Successful Submitter on the "Certification of Payment to DBE" form noted above.

ATTACHMENT A
PROPOSED DBE PARTICIPATION
 (TO BE COMPLETED BY THE SUBMITTER – DUE AT TIME OF SUBMITTAL)

NOTE: No dollar amount should be recorded on this form. Proposed participation should be noted as a percentage ONLY. Providing a dollar amount may result in your proposal being deemed non-responsive.

NAME OF SUBMITTER _____ PROJECT DESCRIPTION _____

DBE FIRM NAME (if known)	PRINCIPAL CONTACT (if not known, enter "N/A")	ADDRESS/PHONE (if not known, enter "N/A")	SCOPE OF WORK DBE WILL PERFORM (if not known, enter "N/A")	TOTAL PARTICIPATION PERCENTAGE (if not known, enter "N/A")
				%
				%
				%
				%
				%
				%
				%
 Enter Total Percentage of Proposed DBE Utilization in the box to the right. Sum percentages from individual scope areas OR enter TOTAL general proposed percentage utilization. In order for submittal to be considered responsive, TOTAL percentage must be equal to or greater than the DBE goal in Section II, Part A, OR the submittal must be accompanied by a waiver request.				TOTAL %

NOTE: PLEASE REVIEW SECTION III (D) OF THE SPECIFICATIONS TO ENSURE THE PARTICIPATION LISTED ON THE FORM HAS BEEN COUNTED CONSISTENT WITH DBE PROGRAM REQUIREMENTS.

Statement of Commitment:

This will certify that, of the total scope of services (based on the solicitation documents), _____% (Enter Total Proposed DBE Participation from above) will be accomplished by duly certified Disadvantaged Business Enterprises.

THE UNDERSIGNED HEREIN AFFIRMS THAT THE SUBMITTER WILL ENTER INTO A FORMAL AGREEMENT WITH THE DBE FIRMS LISTED HEREIN CONDITIONED UPON THE EXECUTION OF A CONTRACT WITH THE PURCHASER.

Signed By _____ Title _____ Date _____

ATTACHMENT B
SUBCONSULTANT/SUBCONTRACTOR/SUPPLIER CONTACT/BIDDER LIST
 (TO BE COMPLETED BY THE SUBMITTER – DUE AT TIME OF SUBMITTAL)

COMPANY NAME	COMPANY ADDRESS	SCOPE OF WORK SOLICITED	FIRM USED IN BID AMOUNT (YES OR NO)	FIRM CERTIFICATION STATUS (IF KNOWN)
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED

NOTE: If additional space is required, please copy and submit multiple pages of the Attachment.

Submitter: _____

Signature: _____

Completed by: _____

Date: _____

ATTACHMENT C
LETTER OF INTENT TO PERFORM AS A SUBCONSULTANT/SUBCONTRACTOR/SUPPLIER
(TO BE COMPLETED BY THE DBE FIRM – DUE PRIOR TO CONTRACT AWARD)

PROJECT DESCRIPTION:

PROJECT NUMBER:

TO: _____
(Insert name of Successful Submitter)

1. The undersigned is certified as a DBE as of the date of this bid with the following agency:
Arizona Unified Certification Program (please provide agency name)_____
2. The undersigned is prepared to perform the following scope(s) of work on the above referenced project:

COMPLETE THIS PORTION IF SCOPE OF WORK IS BID BY UNIT PRICE OR HOURLY RATE (TRUCKING, HAULING, UNIFORMED OFFICERS, ETC.)			
Description	Unit/Hour Estimate	Unit/Hourly Price	Total Minimum Contract Amount
			\$

COMPLETE THIS PORTION IF SCOPE OF WORK IS NOT BID BY UNIT PRICE OR HOURLY RATE	
Description	Total Bid Amount
	\$

3. The undersigned affirms that of the trucking/hauling work quoted above, the following applies:
Total Minimum Contract Amount \$_____
Percentage Subcontracted to Non-DBE Trucking Firms ____%
Brokerage Fee Charged to Non-DBE Trucking Firms ____%
Percentage Subcontracted to DBE Trucking Firms ____%
4. The undersigned affirms the amount of fees and commissions for work quoted above are as follows:
Unit Price Bid \$_____ Fees/Commissions Portion of Bid \$_____
5. The undersigned will sublet and/or award \$_____ of work bid to a non-DBE firm
6. The undersigned will sublet and/or award \$_____ of work bid to another certified DBE firm

On the ____ day of _____, 201 __, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the Submitter receive award of this contract from the City of _____. (Note: Statements #1- #6 must be responded to)

(Print DBE Firm Name)

(Phone Number)

(Authorized Signature)

(Print Name and Title)

ATTACHMENT C-2

**LETTER OF INTENT TO PERFORM AS ASUBCONSULTANT/SUBCONTRACTOR/SUPPLIER
INSTRUCTIONS AND WORKSHEET**

THE FOLLOWING IS BEING PROVIDED AS AN EXAMPLE FOR CALCULATING THE AMOUNTS THAT SHOULD BE ENTERED ONTO ATTACHMENT C. FOR ASSISTANCE PLEASE CONTACT THE EQUAL OPPORTUNITY DEPARTMENT AT 602-4945-0887.

Part I. Fees and Commissions: Insert the information from Step One below in Section 2 of Attachment C of the LOI form. Transfer the information from Step Three to Section 4 of the form. This part is applicable to the use of uniformed officers to provide traffic control and security and other services provided at an hourly rate by non-employees of the DBE bidder where the DBE will retain fees or commissions.

STEP ONE			
Total Number of Hours	Per Hour Bid Amount	Total Gross Bid Amount	Calculation Formula:
200	\$30	\$6,000	$200 \times \$30 = \$6,000$
STEP TWO			
Per Hour Bid Amount	Hourly Rate Paid to Officers	DBE Firm Commission/Fee	Calculation Formula:
\$30	\$21	\$9	$9 / 30 = 30\%$
STEP THREE			
Gross Bid Amount (from Step One)	Commission/Fee % (from Step Two)	Amount Counted as DBE Participation	Calculation Formula:
\$6,000	30%	\$1,800	$\$6,000 \times .30 = \$1,800$

Part II. Trucking and Hauling: DBEs should indicate in Sections 2 and 3 of Attachment C of the LOI form information regarding DBE trucking on the contract. The City allows 100 percent of the payments for services provided by DBE owned and leased trucks to be counted. The payments for non-DBE owned or leased trucks cannot be counted in full. Only the fees and commissions that the DBE firm retains over and above the leasing costs they pay for non-DBE owned or leased trucks can be counted. The City will require proof of the leasing arrangements prior to determining compliance.

STEP ONE	STEP TWO	STEP THREE
Total number of trucks to be used on the contract	Number of trucks owned by the DBE that will be used on the contract	Number of DBE leased trucks that can be counted in full
7	2	3
STEP FOUR	STEP FIVE	STEP SIX
Number of non-DBE leased trucks that cannot be counted in full (add Steps Two and Three and subtract from Step One)	Fees and Commissions that will be retained by the DBE for the trucks in Step Four that cannot be counted in full	
2	Total cost being charged to Submitter minus leasing cost of each truck times # trucks in Step Four	

ATTACHMENT D
PROPOSED DBE PARTICIPATION

(TO BE COMPLETED BY THE SUCCESSFUL SUBMITTER – DUE PRIOR TO CONTRACT AWARD)

NAME OF SUCCESSFUL SUBMITTER _____ PROJECT DESCRIPTION _____

DBE FIRM NAME	PRINCIPAL CONTACT	ADDRESS/PHONE	SCOPE OF WORK DBE WILL PERFORM	TOTAL DOLLAR VALUE OF WORK TO BE PERFORMED BY DBE	\$ VALUE OF DBE UTILIZATION APPLIED TOWARD GOAL from Attachment C
				TOTAL	

NOTE: IF LISTING TRUCKING/HAULING, UNIFORMED POLICE OFFICERS, SUPPLIERS, OR OTHER SCOPES OF WORK THAT MAY BE SUBJECT TO DBE UTILIZATION LIMITATIONS, PLEASE REFER TO THE SPECIFICATION DOCUMENTS AND ATTACHMENT C-2 FOR INSTRUCTIONS

THE TOTAL PROPOSED DBE UTILIZATION LISTED ABOVE IS \$ _____ OR % OF THE TOTAL CONTRACT AMOUNT \$ _____.

THE UNDERSIGNED HEREIN AFFIRMS THAT THE SUCCESSFUL SUBMITTER WILL ENTER INTO A FORMAL AGREEMENT WITH THE DBE FIRMS LISTED HEREIN CONDITIONED UPON THE EXECUTION OF A CONTRACT (OR JOB ORDER AGREEMENT, IF APPLICABLE) WITH THE PURCHASER.

Signed By _____ Title _____ Date _____

ATTACHMENT E
SUBCONSULTANT/SUBCONTRACTOR/SUPPLIER CONTACT/BIDDER LIST
(TO BE COMPLETED BY THE SUCCESSFUL SUBMITTER – DUE PRIOR TO CONTRACT AWARD)

COMPANY NAME	COMPANY ADDRESS	SCOPE OF WORK SOLICITED	FIRM USED IN PROPOSAL AMOUNT (YES OR NO)	FIRM CERTIFICATION STATUS (IF KNOWN)
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED
			<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DBE <input type="checkbox"/> NOT CERTIFIED

NOTE: If additional space is required, please copy and submit multiple pages of the Attachment.

Successful Submitter: _____

Signature: _____

Completed by: _____

Date: _____

ATTACHMENT F
SUCCESSFUL SUBMITTER'S STATEMENT OF DBE UTILIZATION
(TO BE SUBMITTED WITH EACH PAYMENT REQUEST/INVOICE)

(1) PAY REQUEST NO. _____

(2) REPORT PERIOD FROM _____ TO _____

SHEET **OF**

(3) PROJECT NAME _____

(4) PROJECT NO. _____

(5) CONTRACT AMOUNT \$_____

(6) CONTRACT NO. _____

(7) REQUIRED DBE UTILIZATION _____%

(8) PROPOSED DBE UTILIZATION _____%

[illegible]

(22) SUCCESSFUL SUBMITTER _____ (23) AUTHORIZED SIGNATURE _____ (24) DATE _____

(25) PERCENTAGE OF TOTAL CONTRACT COMPLETED TO DATE _____%

ATTACHMENT G

CERTIFICATION OF PAYMENT TO DBE FIRMS

(TO BE COMPLETED BY THE SUCCESSFUL SUBMITTER AND DBE FIRM)

SUCCESSFUL SUBMITTER AFFIDAVIT:

The undersigned, having contracted as the Successful Submitter on Project # _____, hereby certifies that full payment has been made to the DBE firm cited below. The total value of all payments made to the DBE firm for materials and/or work performed on this project contract is as follows:

DBE Firm: _____ **Total Amount Paid: \$** _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years from the project acceptance date. In the event the DBE was not paid in accordance with affidavits submitted by the Successful Submitter, all documentation supporting the Successful Submitter's position with regards to delayed or withheld payment(s) should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Authorized Agent for Successful Submitter (Print Name and Title)

Date: _____

DBE FIRM AFFIDAVIT:

The undersigned DBE firm hereby certifies that a contract was entered into with the above named Successful Submitter to perform work or provide materials on the project cited in this document. I further certify that the total amount of payments received as provided herein by the prime contract is accurate and unchallenged.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Authorized Agent for DBE Firm (Print Name and Title)

Date: _____

Project Name: _____ **Successful Submitter:** _____

By: _____
Authorized Agent for Successful Submitter

(Print Name and Title)